

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Rodney Daughtrey Art Unit : 3639
Serial No. : 09/812,224 Examiner : Thomas Dixon
Filed : March 19, 2001 Conf. No. : 9468
Title : FARE RULES SUMMARIZER FOR TRAVEL PLANNING

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 C.F.R. §41.41, Applicant responds to the Examiner's Answer as follows:

Non-statutory subject matter

Appellant has not argued that "user interface" is a statutory class. Rather, Appellants argued that: "the claims are not drawn to an interface per se as a statutory class but rather are drawn to an article of manufacture, namely an interface displayed on a monitor."

The examiner also argues that: "Applicant's claimed 'user interface,' is not operated, as argued, but is simply a display on a screen, with no functionality to be operated, and is seen to be nonfunctional descriptive material, not an article of manufacture."

Appellant disagrees and contends that in view of recent court decisions such as *AT&T v. Excel* at 1453 while acknowledging that: "A mathematical formula alone, sometimes referred to as a mathematical algorithm, viewed in the abstract, is considered unpatentable subject matter, (citations omitted)" The court also recognized that:

Since the process of manipulation of numbers is a fundamental part of computer technology, we have had to reexamine the rules that govern the patentability of such technology. The sea-changes in both law and technology stand as a testament to the ability of law to adapt to new and innovative concepts, while remaining true to basic principles.

Applicant contends that the Board has already addressed an analogous situation in *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) in which a data structure on a computer medium was expressly found to recite patentable subject matter by the Board and acknowledged

Noted 3/19/01
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